

**INFORMATION STATEMENT  
FOR THE  
PERMANENT REGULATIONS OF NAC 645B  
OF THE  
STATE OF NEVADA, DIVISION OF MORTGAGE LENDING,  
DEPARTMENT OF BUSINESS AND INDUSTRY**

The following statement is submitted for adopted amendments to Nevada Administrative Code chapter 645B.

**1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary:**

Public comment was solicited by sending notices of the workshop and hearings to all licensees and all interested parties on the Division's mailing list. Public comment was also solicited by posting notices of the workshop and hearings at public libraries throughout the state, the Division's offices, the Division's website at [www.mld.nv.gov](http://www.mld.nv.gov), the Attorney General's Office in Carson City, and the Manufactured Housing Division in Las Vegas. A summary of the public response is outlined in section 3 below. Interested persons may obtain a copy of the minutes and written comments from the Division of Mortgage Lending at 3075 East Flamingo, Ste. 104A, Las Vegas, Nevada 89121 or 400 W. King St., Ste. 406, Carson City, Nevada 89703 or by calling (702) 486-0782. The minutes may also be found on the Division's website.

**2. A statement indicating the number of persons who attended each meeting or workshop, testified at each hearing, and submitted written statements regarding the proposed regulation:**

**A. The number of persons who:**

<b>(a) Attended each workshop:</b>	April 26, 2004	31
<b>(b) Attended each hearing:</b>	May 28, 2004	157
	June 11, 2004	158
	June 16, 2004	32
<b>(c) Testified at each workshop:</b>	April 26, 2004	14
<b>(d) Testified at each hearing:</b>	May 28, 2004	25
	June 11, 2004	41
	June 16, 2004	21
<b>(e) Submitted written comments to the agency:</b>		31

The workshop and hearings to solicit comments for NAC 645B were held concurrent with proposals to NAC 645A and NAC 645E. The numbers shown above represent testimony regarding proposals to all three regulations.

**3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary:**

Public comment was solicited by sending notices to all licensed mortgage brokers, bankers and escrow companies in the state of Nevada, by posting the proposed regulations at public libraries throughout the state of Nevada and posting on the Division's website. Comments from affected businesses were primarily given by oral comment at the workshop and hearings. A limited number of written comments were received.

A large percentage of comments concerned the proposal to disallow mortgage brokers/agents/qualified employees to simultaneously hold a real estate broker/salesman license. In response to industry input, this proposed regulation was revised twice. The first revision would allow mortgage brokers or mortgage agents to hold a real estate salesmen or broker license, but not be compensated on both sides of a single transaction. Following additional industry comment the proposed regulation was revised to permit dual licensing and compensation in a single transaction, but require disclosure to the consumer regarding the dual capacity relationship. Although there was some support to disallow dual licensing and compensation, the professional associations for both mortgage brokers and real estate agents/brokers supported the disclosure requirement.

Other comments pertained to:

- Signage requirements.
- The requirement to operate from an office that was separate and distinctly identified.
- The proposal to require mortgage lending businesses to operate from a non-residential location.
- Regulations pertaining to continuing education classes regarding who could approve classes.
- The Division's authority to examine affiliated businesses that directly related to the business off the mortgage broker.
- File retention requirements.
- The timeframe for licensees to submit written comments or objections to an examination report.
- The licensee's ability to receive an accounting of examination hours.
- The ability of a private investor to waive the information requirements provided by the mortgage broker.
- Advertising requirements when advertising jointly with a builder.

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**4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change. The statement should also explain the reasons for making any changes to the regulation proposed.**

Several changes were made to the regulations as originally proposed based upon public comments at the workshop and hearings, written comments and comments from Division staff. Changes include:

- The regulation permits dual representation by real estate brokers/agents and mortgage lenders with a disclosure to the consumer. A disclosure form was added as a new regulation.
- The regulations were revised to require signage similar to that currently required by the Real Estate Division.
- The regulations were revised to allow a mortgage broker to share office space with any other business if each business has a designated space within the office space and each business is separately identifiable by a sign or other method of identification within the office space.
- The proposed regulation requiring operation from a non-residential location was withdrawn.
- Organizations permitted to approve education classes were expanded.
- During public hearings, the Division clarified the authority to examine affiliated businesses extends only to activities which are directly related to the business of the licensee. A definition of affiliated business was included in the regulation.
- The timeframe for licensees to submit written comments or objections to an examination report was expanded from 15 to 30 days.
- A regulation was added requiring the Division to provide an accounting of the examination hours upon request.
- A disclosure form to be signed by private investors was incorporated into the regulations giving investors the right to waive certain information to the extent allowed by law.
- The regulation permits a mortgage broker to advertise jointly with a company licensed pursuant to chapter 624 or 645 of NRS if each business is disclosed separately in the advertisement and each business incurs a pro rata share of the cost associated with the advertisement.

Deleted: separately

**5. The estimated economic effect of the adopted regulation on the business that it is to regulate and on the public. These must be stated separately, and each case must include: (a) both adverse and beneficial effects and (b) both immediate and long-term effects:**

**Estimated economic effect on the business:**

Mortgage brokers may have an increased cost in signage, having separate and distinct office space and sufficient file storage. The Division does not anticipate that this will have a negative economic effect to the majority of licensees. There are approximately fifteen licensees currently operating from a residence that may not be able to meet the signage requirements. Those licensees may have to obtain office space allowing signage.

**(a) Adverse and beneficial effects:**

There are no apparent beneficial economic effects from these regulations to the industry as a whole.

**(b) Immediate and long-term effects:**

The immediate effects and the long-term effects of this regulation are highly negligible and difficult to calculate in either case.

**Estimated economic effect on the public:**

It is estimated that the proposed regulation to be adopted and amended will not have any significant negative or positive economic effect on the public.

**(a) Adverse and beneficial effects:**

The adverse effect of a dual relationship is the potential risk of fraud and possible increased costs to the consumer. This risk is mitigated by the dual relationship disclosure. The public may benefit from receiving this disclosure by encouraging individuals to make a comparative analysis of provider's services and fees.

**(b) Immediate and long-term effects:**

None.

**6. The estimated cost to the agency for enforcement of the proposed regulation:**

No additional cost to the Division of Mortgage Lending for enforcement of the proposed regulations is anticipated.

**7. A description of any regulations of the state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.**

The regulations overlap with federal regulations in that 645B.330(c) states violations of the Truth in Lending Act, the Equal Credit Opportunity Act, The Real Estate Settlement Procedures Act and other applicable federal laws and state laws related to mortgage transactions are violations of NAC 645.330.

**8. If the regulation includes provisions that are more stringent than a federal regulation that regulates the same activity, a summary of those provisions.**

No.

**9. If the regulation establishes a new fee or increases an existing fee, a statement indicating the total annual amount the agency expects to collect and the manner in which the money will be used.**

The fees for examinations increased from \$40.00 to \$60.00 for brokers and bankers. It is anticipated this fee will increase revenue by approximately \$10,950 per year. These funds will be used to offset the Division's costs of examinations.